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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,020	05/15/2001	Mitsuhira Idaka	Q64489	8003

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EXAMINER
CAPRON, AARON J

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 06/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/855,020	IDAKA, MITSUHIRA	
	Examiner	Art Unit	
	Aaron J. Capron	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

MARK SAGER
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

This is in response to the Amendment received on April 4, 2002, in which claims 1 and 6 were amended. Claims 1-12 are pending.

Examiner thanks the Applicant in pointing out the §102 error. Examiner acknowledges that the Applicant is correct in treating the rejection based on Cumbers as § 102(e) prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-4, 6-8, 10 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by (U.S Patent No. 6,142,876).

Cumbers discloses a game machine that includes a player identifier (Figure 2; column 4, lines 9-14), a data storage that stores personal information (Column 2, line 62 to column 3, line 8) of a plurality of players, and a game environment arranger that reads out the personal information of the player identified by the player identifier from the data storage and automatically sets up a game environment (Column 5, lines 24-32) based on the read out personal information.

Referring to claim 2, Cumbers discloses that the player identifier identifies the player using image recognition techniques (Figure 2; column 4, lines 9-14).

Referring to claim 3, Cumbers discloses a game monitor that monitors status of the game played by the player to generate monitoring information (Column 5, line 32-36) and a personal information generator that generates new personal information of the player based on the monitoring information and stores the new personal information in the data storage (Column 5, line 36-42).

Referring to claim 4, Cumbers discloses an information communicator that communicates the personal information stored in the data storage with another game machine connected to the game machine (Column 2, line 54 to column 3, line 19).

Referring to claim 6, Cumber discloses the personal information includes at least one of information regarding a skill level of the player, information regarding the number of tokens acquired in the game, and information regarding growth status in a raising game (Column 3, lines 16-19 and column 6, line 66 to column 7, line 9).

Claims 7-8, 10 and 12 correspond in scope to a system set forth for use of the machine listed in claims 1-4 and 6 and are encompassed by use as set forth in the rejection above.

Claims 1, 3-9 and 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Sparks, II (6,352,479; hereafter "Sparks").

Sparks discloses a game machine that includes a player identifier (a player logs onto the website--Abstract), a data storage that stores personal information (5:9-14) of a plurality of players, and a game environment arranger that reads out the personal information of the player

identified by the player identifier from the data storage and automatically sets up a game environment (6:6-21) based on the read out personal information. If there is no new information (user preferences), the game environment is automatically set up, as described in the text above.

Referring to claim 3, Sparks discloses a game monitor that monitors status of the game played by the player to generate monitoring information (1:60-65) and a personal information generator that generates new personal information of the player based on the monitoring information and stores the new personal information in the data storage (5:9-14 for example the preferred weapon).

Referring to claim 4, Sparks discloses an information communicator that communicates the personal information stored in the data storage with another game machine connected to the game machine (Figure 1).

Referring to claim 5, Sparks discloses a level determiner that automatically determines a skill level of the player to generates skill level information based on the monitoring information (Figure 11A; 6:49-61) where the personal information generator incorporates the skill level information to the personal information and where the game environment arranger automatically reads out personal information of another player stored in the data storage as an opponent in a multi-player game based on the skill level information of the player (Figure 11A; 6:62-7:3).

Claims 7-8, and 11 correspond in scope to a system set forth for use of the machine listed in claims 1-4 and are encompassed by use as set forth in the rejection above.

Referring to claim 9, Sparks discloses a network system that includes a host apparatus and the respective game machines are connected via the Internet to play a network game provided on the Internet (Abstract).

Claims 6 and 12 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sparks. Sparks discloses at least one of the features listed in each of the claims below, but does not teach all of the features listed in each of the claims below. However, these "untaught" features are equivalent to the features that are disclosed by Sparks.

Referring to claim 6, Sparks discloses the personal information includes at least one of information regarding a skill level of the player, information regarding the number of tokens acquired in the game, and information regarding growth status in a raising game (5:5-16 and 6:49 to 7:34).

Claim 12 corresponds in scope to a system set forth for use of the machine listed in claim 6 and are encompassed by use as set forth in the rejection above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cumbers.

Cumbers discloses a network system for setting up a game environment that includes a common host apparatus, a plurality of game machines communicatively connected to the host apparatus, a player identifier, a data storage that stores personal information of a plurality of

players, and a game environment arranger that reads out the personal information of the player identified by the player identifier from the data storage and automatically sets up a game environment based on the read out personal information. Cumbers does not disclose that the host apparatus and the respective game machines are connected via the Internet to play a network game provided on the Internet. However, it is well known that casino games that use identification systems are played on the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a host apparatus and the respective game machines being connected via the Internet to the identification system of Cumbers to ensure that the proper personal information is being opened by the proper player.

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks in view of Schneier et al. (U.S. Patent No. 6,099,408; hereafter "Schneier").

Sparks discloses a game machine with a player identifier, but does disclose the player identifier using image recognition techniques. However, Schneier discloses a biometric device that could incorporate the image recognition techniques (16:7-13). One would be motivated to combine the two references since both references refer to needing a player identifier for playing an electronic video game and use player preferences to alter the game. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the biometric device into Sparks game machine because a biometric device would offer an upgrade to verify whether the authorized player is playing the correct game.

Claim 10 corresponds in scope to a system set forth for use of the machine listed in claim 2 and are encompassed by use as set forth in the rejection above.

Response to Amendment

Applicant's arguments filed on March 12, 2002 have been fully considered, but the arguments are insufficient to overcome the Cumbers reference. Applicant argued that Cumbers does not have game environment arranger that sets up a game environment based on the personal information. However, as broadly claimed by Applicant, Cumbers discloses the features of the game environment and game environment arranger. Cumbers discloses a parameter of play (game environment arranger) that sets up the game machine (game environment) based upon the account information (personal information).

With respect to claims 5 and 11, Examiner acknowledges that the Applicant's arguments are sufficient to overcome the Cumbers reference. However, as shown above, Sparks discloses the claimed features of claims 1, 3-9 and 11-12.

Additional Comments

It is noted that claim 9 recites the 'Internet'. While the term is trademarked for various goods and services, it is not presently trademarked for the service of a computer network. However, the terms are relative given both the rate at which technology is evolving, and misuse by media. The Internet is an infrastructure that supports transmission of electronic data. It consists of all servers, routers, communication lines, satellites and other communication devices used to convey the electronic data, including Web sites, E-mail, Usenet and news groups, from one point to another. By using the term, applicant must be careful to delineate whether invention claims the infrastructure of Internet or use of the infrastructure they contain. Furthermore, what

is accepted as conventional scope of the Internet today in terms of infrastructure, is quite different from what was accepted a mere five (5) years ago, and it is unknown what will be accepted as either the Internet of tomorrow. For these reasons, it is strongly urged Applicant consider using more generic terminology of a computer network to claim inventive concepts.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker et al (U.S. Patent No. 6,110,041) discloses on adapting gaming devices to player preferences

Walker et al (U.S. Patent No. 6,224,486) discloses establishing skill levels for the players in order to determine whether the player can proceed to a subsequent game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9302 for regular communications and (703) 746-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
June 11, 2002

MARK SAGER
PRIMARY EXAMINER